



US Army Corps
of Engineers®

Regulatory Division
1455 Market Street
San Francisco, CA 94103-1398

SAN FRANCISCO DISTRICT PUBLIC NOTICE

Project: United States Fish and Wildlife Service South Bay Salt Pond Operations and Maintenance

NUMBER: 2008-00103S
PROJECT MANAGER: Paula Gill

DATE: June 30, 2008
PHONE: 415-503-6776

RESPONSE REQUIRED BY: July 30, 2008
Email: Paula.C.Gill@usace.army.mil

1. **INTRODUCTION:** The United States Fish and Wildlife Service (USFWS, Don Edwards San Francisco Bay Wildlife Refuge, 9500 Thornton Avenue, Newark, California, 94560) and California Department of Fish and Game (CDFG, 7329 Silverado Trail, Napa, CA 94558) have applied for a Department of the Army permit to complete routine operation and maintenance of South Bay Salt Pond (SBSP) levees for ten years. The purpose of the proposed project is to provide for continued maintenance of levees, water control structures, and other existing structures.

In November of 1995, a similar authorization (19009S) was issued to Cargill, Incorporated (Cargill) for the purpose of maintaining levees, water control structures, and other existing structures. As properties have been transferred from Cargill to the applicants, they have been performing maintenance activities under this authorization. Recently the applicants have requested a new, but similar authorization to continue to complete the re-occurring maintenance requirements to facilitate wildlife habitat and to reduce the risk of offsite flooding.

Activities described in the proposed project section would occur in three pond complexes: Alviso, Ravenswood, and Eden Landing (Figure 1). The Alviso pond complexes consist of 25 ponds on the shores of the South Bay in Fremont, San Jose, Sunnyvale and Mountain View, in Santa Clara and Alameda Counties. The complex is bordered by the Palo Alto Baylands Nature preserve and Charleston Slough on the west, on the south by Moffett Naval

Air Station, Mountain View Shoreline Park, Sunnyvale Treatment Plant, Sunnyvale Baylands Park, and Pond A4, to the north by Fremont, and to the east by Pond A18, New Chicago Marsh, and Fremont. The Ravenswood pond complex consists of 7 ponds on the bayside of the Peninsula, along both sides of Highway 84 west of the Dumbarton Bridge, and on the bayside of the City of Menlo Park in San Mateo County. The Eden Landing pond complex consists of 23 ponds on the shores of the East Bay, west of Hayward and Union City in Alameda County, California.

This application is being processed pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403) and Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. PROPOSED PROJECT:

Annual Reporting Requirements:

Two annual reports would be required. The first annual report (referred to as the advanced notification) would consist of a draft work plan for the coming year. Along with other information this plan would include work locations, best management practices, linear extent of work, specified dredge locks, and proposed work timeframes. The second annual report would summarize work completed in the previous year. Each of these reports would be sent to all interested parties including the Corps of Engineers, the USFWS, the National Marine Fisheries Service

(NMFS), the U.S. Environmental Protection Agency (US EPA), the CDFG, and the San Francisco Bay Conservation and Development Commission (BCDC), and the San Francisco Bay Regional Water Quality Control Board (RWQCB).

All parties would have two weeks to review the reports and to provide comments to the Corps. Based on the input received, the regulatory agencies would direct the permittees (Refuge & CDF&G) to change the plan accordingly.

Repair, replacement, and servicing of existing and on-going facilities (figures 2, 3, and 4):

Activities would include: a) repair and replacement of existing bay intake/outlet structures and related facilities such as pumps, gates, pipelines, siphons, open channels and culverts, and removal of silts and algae from these structures. Excavated material would be placed in an identified upland area unless specified otherwise in the advanced notification (e.g., tops of levees above the plane of high tide).

b) Excavating, clearing, and re-trenching of existing intake/outlet structures and conveying ditches so long as the existing configuration is not altered substantially. Excavated material would be disposed of onto levee tops above the plane of the high tide or hauled off-site to a non-jurisdictional area.

c) Repair and replacement of existing bridges, bridge foundations and abutments within the network of salt pond levees.

d) Repair and replacement of other items such as existing fences, tide gates, siphons in non-tidal areas, power lines, etc, provided such repair and maintenance does not deviate from the as-built plans of the original facility.

e) Repair of on-going and new authorized reaches of riprap. The authorized riprap areas would be designed to have approximately 3:1 slope. If additional work would exceed the existing reach by 10 linear feet or more, then the proposed design

would be submitted in the advanced notification.

On-going and new work:

Activities qualifying as ongoing and new work may require site specific review and approval by all relevant agencies (i.e. the USFWS, NMFS, US EPA, CDFG, the BCDC, and the RWQCB). This evaluation would occur upon submittal of the advanced notification.

Such activities could include: a) Placement of dredged and fill material on the pond side of salt pond levees below the plane of high water for the purpose of raising and fortifying the levees to prevent degradation. The material, either dredged mud from the salt pond or imported fill, would be placed along the inside and the top of the salt pond levee in accordance with Best Management Practices. Alternatively, where possible, slough mud from outside the ponds may be used if the dredge has sufficient reach.

b) Dredging of existing and new borrow ditches within the salt ponds for the purpose of placing the dredged material on existing levees.

c) Dredging in salt ponds to allow a dredge to cross a pond. This includes the placement of dredge material within the pond. Placement of dredged material within the pond would occur on the pond bottom along the side of the dredged channel.

d) Dredging of and placement of dredged material at 21 existing dredge locks within the SBSP project footprint that are not being utilized by Cargill, and at any newly constructed authorized dredge locks, to allow the dredge to access the salt ponds. Advanced notification for these activities would include specific quantities of material to be dredged and placed, and drawings indicating pre-staked, designated areas for stockpiling, side casting and borrowing material. Breached levee material, stockpiled from the last time the lock was accessed atop the main levee will be used to dam the breach following entry. Upon dredge exit, breaching and plugging levees in a similar

fashion to that described above. The salt marsh muds excavated and side-casted in the access cut would be retrieved and placed back into the access cut and channel, closing behind the dredge (figures 5 and 6).

e) Dredging within shallow sloughs to provide up to four feet of clearance for access by the dredge to salt ponds. Dredge material that cannot be placed on salt pond levees may be placed on bar mud flats or side-cast following approval in accordance with the notification procedure. Some slough dredging may also be performed near dredge locks for the purpose of obtaining additional mud to bring the access cut fills to the desired elevation following the dredge access.

f) Installation of new intake/outlet structures, new pumps, siphons, culverts, power transmission lines, channels/ditches, crossing of channels and streams, in conjunction with new work, or relocation of existing structures.

g) Construction of new pumping donuts, internal coffer dams, and internal salt pond levees.

h) Placement of new riprap along outboard and inboard levees as needed to fortify the slopes and prevent erosion, so long as the permittee has adequately demonstrated that the proposed new riprap is placed below the high tide line and/or high pond level at a slope of about 3:1 where needed, taking care to minimize the number of voids between the rubble that might be utilized by red fox. Riprap placed on top of non-eroding salt marsh is not authorized.

i) Repair and placement of siphons that cross salt marsh, sloughs and channels that would require extensive trenching and side-casting of mud.

j) Dredging and placement of bay muds into eroded areas along selected outboard levees with the purpose of encouraging the expansion of established salt marsh vegetation to diffuse wave energy and prevent levee erosion. The quantities of dredging material to be moved would depend on site-specific conditions and would be included in the notification procedures.

The desired height of the constructed mounds will approximate the high-tide elevation.

k) General maintenance activities as described above, to maintain the Phase 1 elements of the SBSP restoration project once implementation is complete. (The construction of the Phase 1 project elements is covered under a separate authorization). This also includes repair of water control structures and placement of materials on internal levees and nesting islands as needed to maintain ecological functions and values.

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations (40 C.F.R. Parts 1500-1508), and the Corps' Regulations (33 C.F.R. Part 230 and Part 325, Appendix B). Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 1455 Market Street, San Francisco, California 94103-1398.

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires formal consultation with the USFWS and the NMFS if a Corps permitted project may adversely affect any federally listed species or their designated critical habitat.

Several listed species are known to occur within the propose project vicinity, including seven federally listed species: salt marsh harvest mouse (*Reithrodontomys raviventris*), California clapper rail (*Rallus longirostris obsoletus*), western snowy plover (*Charadrius alexandrinus nivosus*), California least

tern (*Sterna antillarum browni*), California brown pelican (*Pelecanus occidentalis californicus*), central California coast steelhead (*Oncorhynchus mykiss*), and its Critical Habitat, and green sturgeon (*Acipenser medirostris*).

A Biological Assessment (BA) was compiled and submitted to the USFWS and NMFS in June of 2007. Separate BA's for Phase I restoration actions and operation and maintenance activities were submitted in July and August of 2007. Revised and updated BA's were re-submitted in May/June of 2008. Section 7 Consultation under the Federal Endangered Species Act is currently in progress and the issuance of Biological Opinions from both agencies are pending.

Magnuson-Stevens Fisheries Conservation and Management Act: Essential Fish Habitat - The Magnuson-Stevens Fishery Conservation and Management Act requires all Federal agencies to consult with the NMFS on all actions, or proposed actions permitted by the agency that may adversely affect Essential Fish Habitat (EFH).

A Biological Assessment addressing effects on EFH associated with the Coastal Pelagics, Pacific Groundfish, and Pacific Coast Salmon Fisheries Management Plans was prepared and submitted to NMFS in July of 2007. The NMFS' EFH conservation recommendations are pending.

Clean Water Act of 1972 (CWA):

Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issue that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612 by the close of the comment period of this Public Notice.

b. Alternatives: Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). An evaluation has been made by this office under the guidelines and it was determined that the proposed project is water dependent.

Coastal Zone Management Act of 1972 (CZMA): Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project is consistent with the State's Coastal Zone Management Program, if applicable. The proposed project is within the Coastal Zone. No Corps permit will be granted until the applicant obtains the required consistency determination.

National Historic Preservation Act of 1966 (NHPA): The EIS and EIR for the larger SBSP Restoration Project, which includes an evaluation of operation and maintenance activities, addressed potential impacts of all of the sets of options to cultural resources. Mitigation measures were outlined for those impacts that would result in an adverse effect to cultural resources. Consultation with the State Historic Preservation Office (SHPO) and appropriate Native American Tribes in accordance with Section 106 of the National Historic Preservation Act is pending.

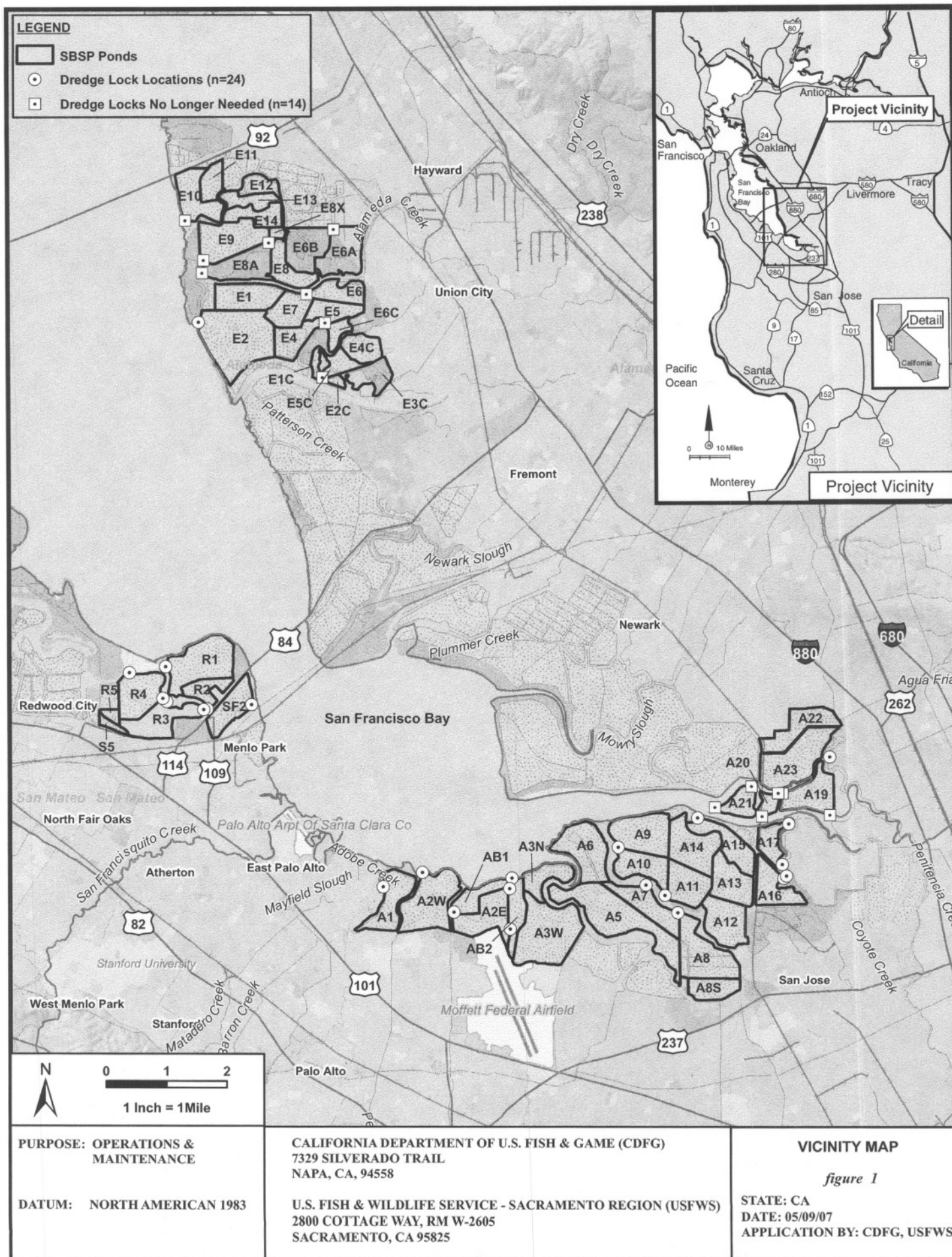
4. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably

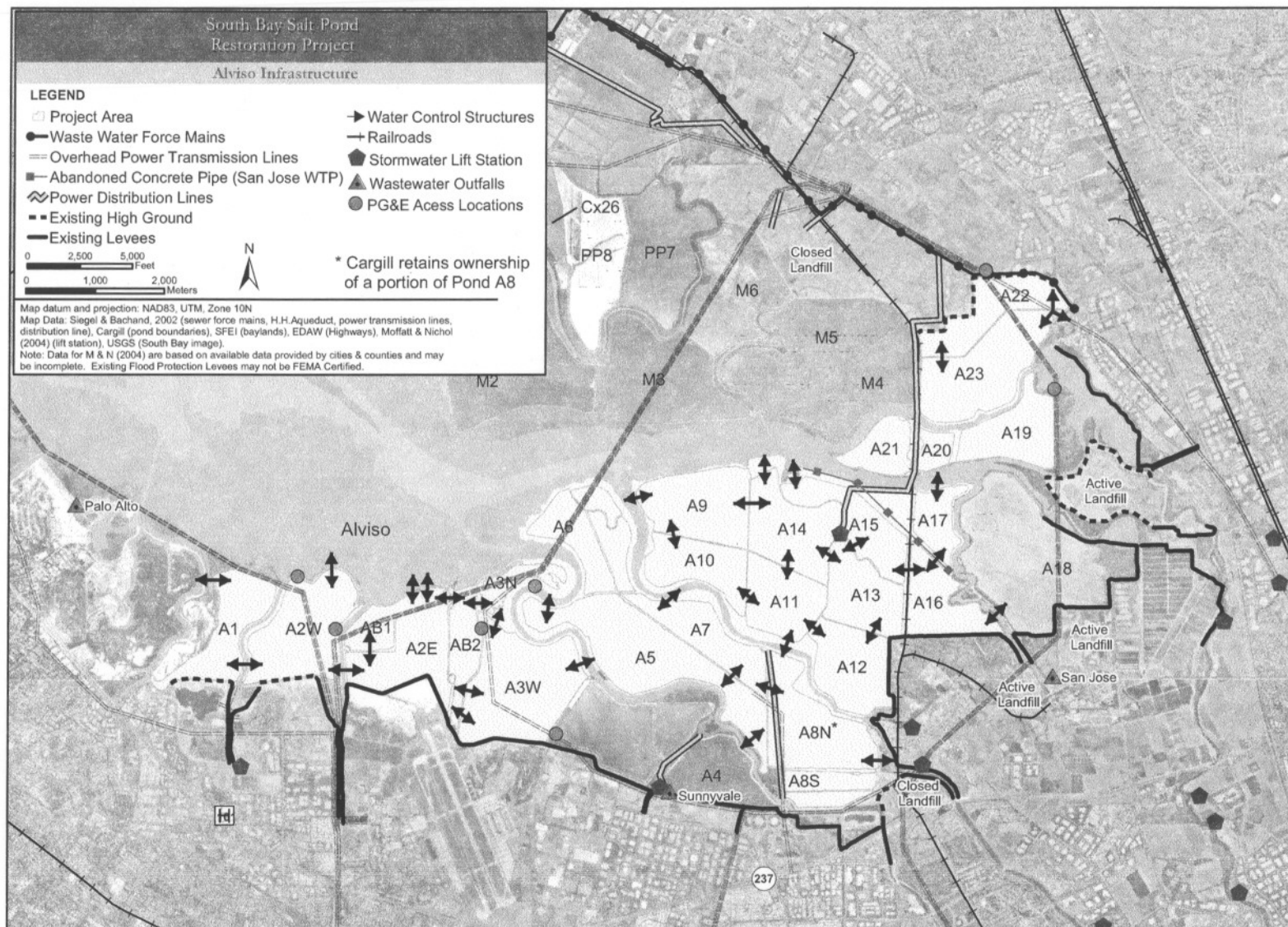
may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

5. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Native American Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on federally listed species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

6. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 1455 Market Street, San Francisco, California 94103-1398. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal.

Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Paula Gill of our office at telephone (415) 503-6776 or E-mail: Paula.C.Gill@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.





PURPOSE: OPERATIONS & MAINTENANCE

DATUM: NORTH AMERICAN 1983

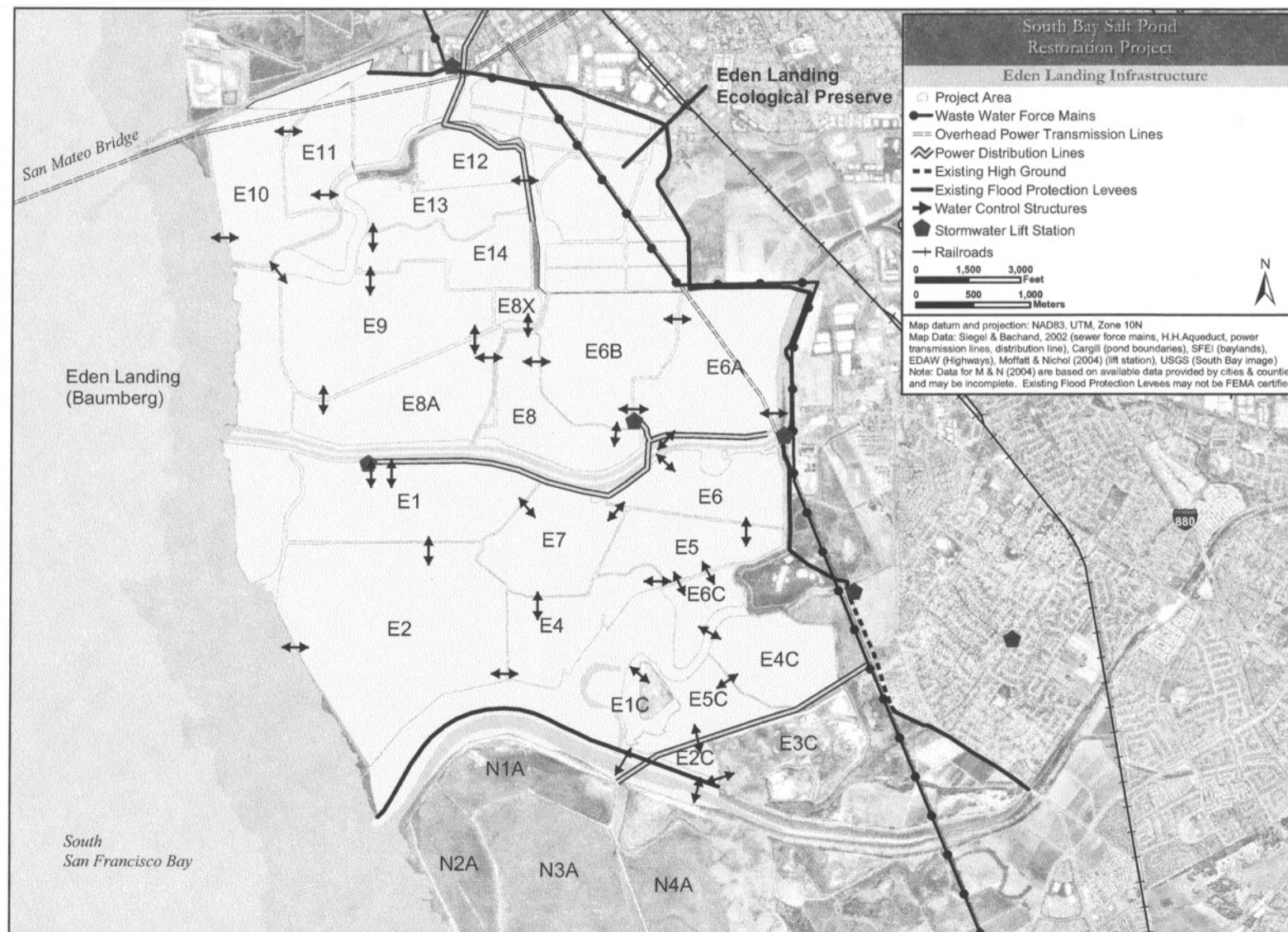
Note: Water control structures include:
a) two-way water control structures
b) pumps
c) siphons

CALIFORNIA DEPARTMENT OF U.S. FISH & GAME (CDFG)
7329 SILVERADO TRAIL
NAPA, CA, 94558

U.S. FISH & WILDLIFE SERVICE - SACRAMENTO REGION (USFWS)
2800 COTTAGE WAY, RM W-2605
SACRAMENTO, CA 95825

ALVISO INFRASTRUCTURE

figure 2



PURPOSE: OPERATIONS & MAINTENANCE

DATUM: NORTH AMERICAN 1983

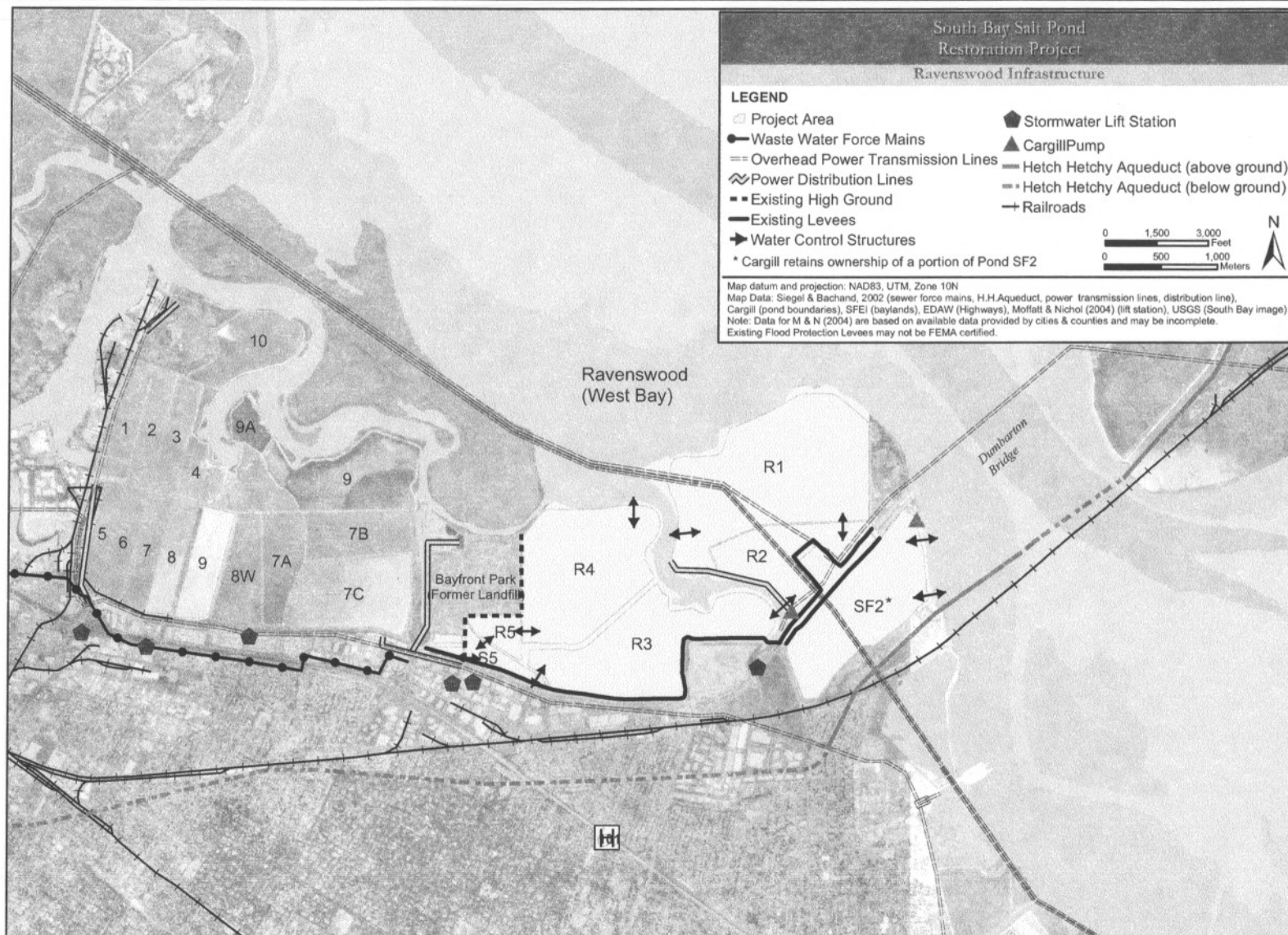
Note: Water control structures include:
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c) siphons

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7329 SILVERADO TRAIL
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2800 COTTAGE WAY, RM W-2605
SACRAMENTO, CA 95825

EDEN LANDING INFRASTRUCTURE

figure 3



PURPOSE: OPERATIONS & MAINTENANCE

DATUM: NORTH AMERICAN 1983

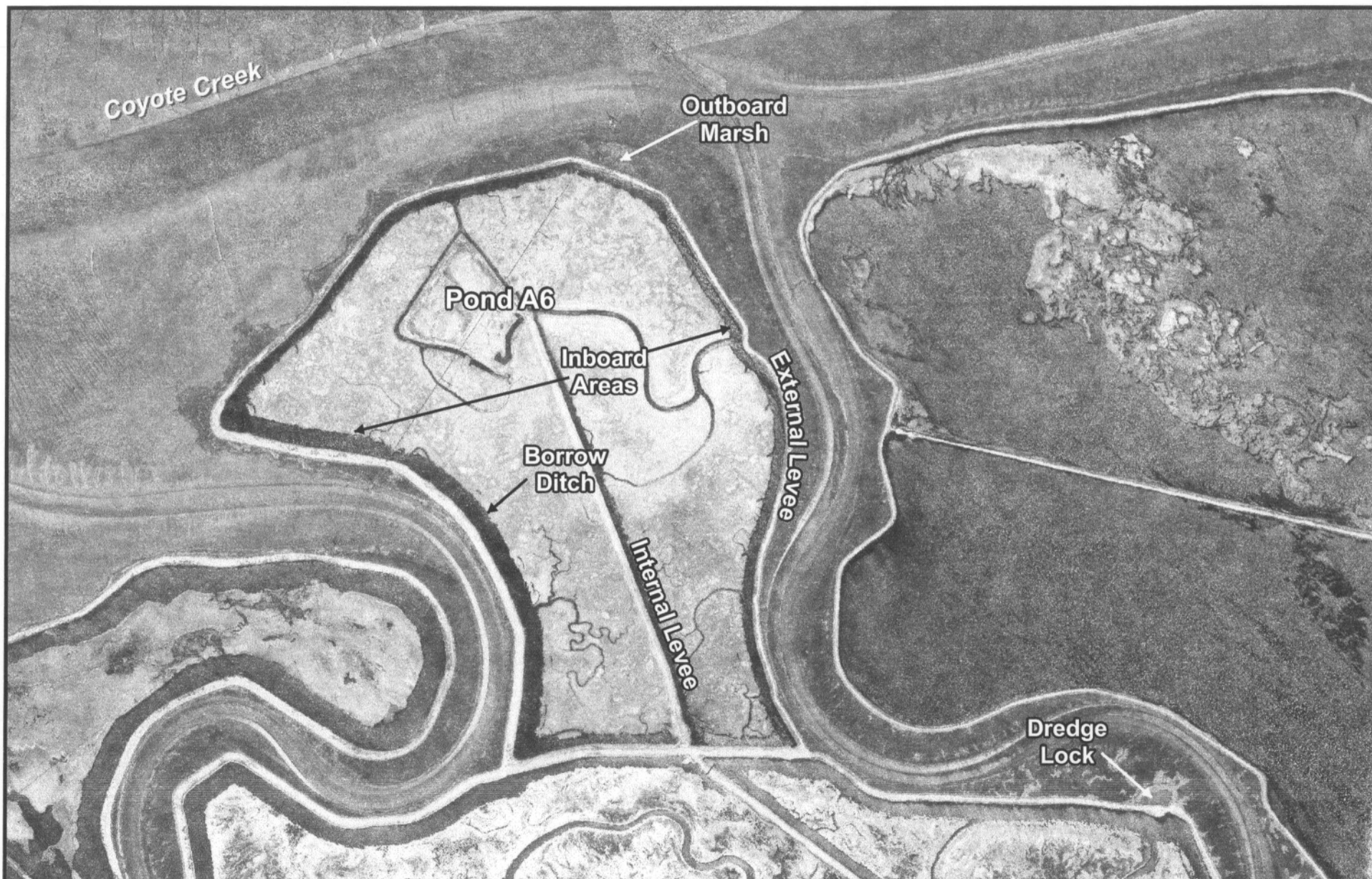
Note: Water control structures include:
 a) two-way water control structures
 b) pumps
 c) siphons

CALIFORNIA DEPARTMENT OF U.S. FISH & GAME (CDFG)
 7329 SILVERADO TRAIL
 NAPA, CA, 94558

U.S. FISH & WILDLIFE SERVICE - SACRAMENTO REGION (USFWS)
 2800 COTTAGE WAY, RM W-2605
 SACRAMENTO, CA 95825

RAVENSWOOD INFRASTRUCTURE

figure 4



PURPOSE: OPERATIONS & MAINTENANCE

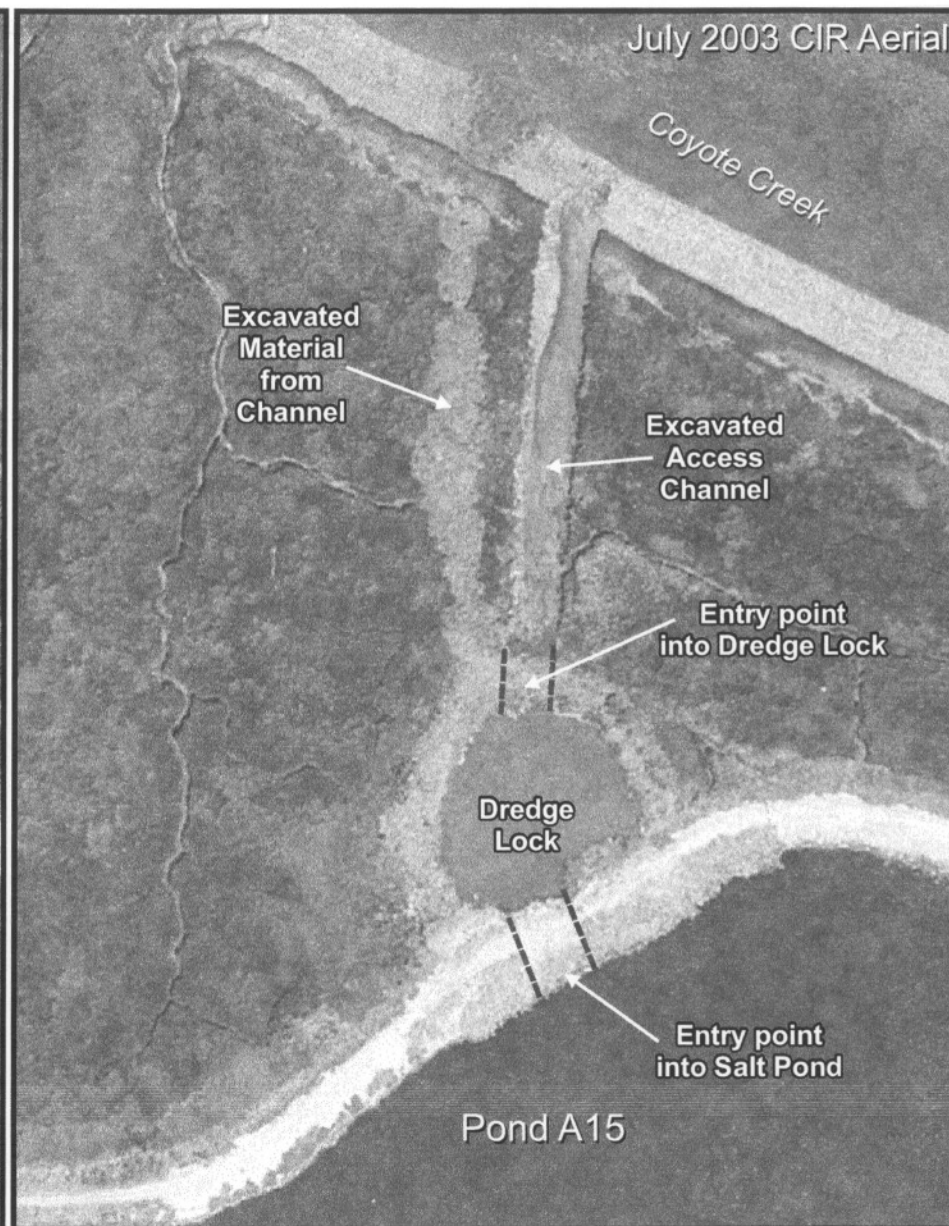
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2800 COTTAGE WAY, RM W-2605
SACRAMENTO, CA 95825

TYPICAL SALT POND FEATURES (POND A6)

figure 5



PURPOSE: OPERATIONS & MAINTENANCE

DATUM: NORTH AMERICAN 1983

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2800 COTTAGE WAY, RM W-2605
SACRAMENTO, CA 95825

DREDGE LOCK ACCESS:
A15 EXAMPLE, 2002-2003

figure 6